

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



July 25, 2002

TO: PARTIES OF RECORD IN APPLICATION 98-07-003

Decision 02-07-032 was mailed on July 18, 2002, without the dissent of Commissioner Wood. Attached herewith is the dissent.

/s/ CARL K. OSHIRO

Carl K. Oshiro, Interim Chief  
Administrative Law Judge

CKO:mnt

Attachment

**Dissenting Opinion of Commissioner Carl Wood**

**SOUTHERN CALIFORNIA EDISON COMPANY'S  
HISTORICAL PROCUREMENT CHARGE**

What this decision is supposed to be about is ensuring that all customers of the Southern California Edison Company participate equitably in the process of returning the utility to financial health. Under the current ratemaking framework, PROACT funds are derived from the generation component of the bill. Only the current bundled service customers are helping Edison to recoup these costs. The direct access customer's bills are credited with the entire generation rate component. The results, under the status quo, are clearly inequitable. Unfortunately, the majority has not chosen to correct this inequity. Rather, the majority has hijacked the proceeding to serve a different purpose: to provide special protections and subsidies to direct access customers. In order to do this, the majority has made assumptions that are not supported by the record and has declared new policy on a matter that is being heard in a different proceeding.

As the proposed decision makes clear, all customers on Edison's system contributed equally to the undercollection, whether they were bundled customers or direct access customers, at the time. Those who were bundled customers when the costs were incurred contributed to the company's need to spend a certain amount to procure power. Those who were direct access customers, at the time, caused Edison to pay credits equivalent to those procurement costs. The record clearly demonstrates that all customers contributed equally to the undercollection and that all customers should pay equally to eliminate the undercollection.

The Proposed Decision offered one reasonable approach to achieving this goal. It would have assigned a pro-rata share of \$540 million to direct access customers and imposed a 2.5 cents per kilowatt hour surcharge designed to recover this sum in 24 months. The majority decision uses a smaller target amount of \$391 million, reflecting the negative credits paid, or owed, to energy service providers and their direct access customers.

What the proponents of this alternate ignore is that the body of direct access customers has constantly changed and that those continuing customers who did not benefit, directly or indirectly, from the negative credits, benefited directly from Edison's procurement activities. Many of those who were once direct access

customers returned to bundled service at some point. Some who are direct access customers now, may have been bundled customers at times during the electricity crisis. As the record shows, the costs are the same, no matter which hat a continuing customer wore at a given time. Thus, it is fiction to suggest that there is some fixed group called “direct access customers” that caused specific costs to be incurred, and that those customers should repay only those specified costs. All customers should bear the burden of repaying the PROACT costs, which were incurred to the benefit of all customers.

As TURN points out, even if one were to accept the faulty premise employed by the majority and only charge current direct access customers the amounts that Edison credited to direct access customers in the past, the majority decision leaves money on the table. The record shows that the \$391 million figure represents only the amount of negative credits paid out or remaining to be paid out (and actually paid since the hearings ended) to customers who utilized the ESP consolidated billing option. There are additional amounts attributable to direct access customers that elected dual billing or utility consolidated billing, but those dollars were not separately identified in this record. The majority simply ignores this fact, thereby clearly understating the amount of the historic undercollection attributable to direct access customers generally. The result is a cost shift to bundled service customers.

At the same time, as those in the majority acknowledged, in their oral comments prior to voting on the decision, the record is deficient. The friendly debate that ensued as to whether or not Edison is at fault for failing to make an energetic showing masks the real issue. It is the bundled customers, not Edison, that pay the price of an inadequate evidentiary record. Once again, TURN offers the cogent response, pointing that it is a warped interpretation of the burden of proof that saddles bundled ratepayers with more charges because an evidentiary showing is inadequate.

Finally, the majority has jumped the gun on another proceeding, in which hearings are currently being held, and announced an intended new policy concerning the use of caps to limited surcharges to be paid by direct access customers. In R.02-01-011, the Commission is considering a full range of issues about direct access surcharges, including several proposals to place a cap on such surcharges. Rather than wait for a decision in that proceeding, the majority has declared its intention to employ such a cap. In its haste, it has done this without notice to the parties in this proceeding, and without the benefit of a record. This is not only unlawful, it is also an insult to the parties who are devoting significant resources to litigating this question in the very forum where the Commission told them they should.

A.98-07-003

D.02-07-032

I note that in a last-minute change, the authors of the majority decision recharacterized it as an “interim order”. The implication is that the Commission may further consider these issues, perhaps taking additional evidence. I hope this is the case, since the majority decision is both misdirected and flawed. For all of these reasons set forth above, I dissent from the order.

/s/ CARL WOOD

Carl Wood  
Commissioner

San Francisco, California

July 17, 2002